

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF HEALTH

In the Matter of Infinitia of Owatonna
Survey Exit Date October 18, 2007

PROTECTIVE ORDER

The Minnesota Department of Health requested a Protective Order in the above matter limiting disclosure of data classified as private and confidential under the Minnesota Data Practices Act, closing the review in this proceeding and sealing the review record as necessary to maintain the not public nature of private and confidential data.

Based upon all the files and proceedings, it is appropriate to issue a Protective Order. This Order is issued pursuant to Minn. Stat. §§ 13.03, subd. 6, and 14.60, subd. 2, and Minn. R. 1400.6700, subp. 4. This Order prohibits the disclosure of data classified as “not public” under Minn. Stat. § 626.557, subds. 5(d) and 12b, Minn. Stat. ch. 13, or other applicable law, to persons not bound by this Protective Order, as set forth below. Therefore, the Administrative Law Judge hereby enters the following:

ORDER

1. Disclosure of not public data is permitted in this matter but is limited to the undersigned Administrative Law Judge, employees of the Department of Health, the provider and its employees, counsel of record, employees assisting counsel in preparation of the case, witnesses from whom affidavits have been obtained or otherwise appear and speak at the review and other persons to whom the not public data must be disclosed in order to adequately prepare for the meeting on this matter.

2. Data subject to this Protective Order includes data classified as “not public” by Minn. Stat. § 626.557, subds. 5(c) and 12b, Minn. Stat. ch. 13, or other applicable law, and includes private or confidential data contained in the following: the contents of the Minnesota Department of Health’s case file; documents and records which become a part of the record of the review meeting, including any written post-review meeting submissions allowed by the Administrative Law Judge; the transcript of the review meeting; the recommended decision of the Administrative Law Judge; and the final decision of the Commissioner of Health.

3. “Not public” data specifically includes, but is not limited to: (1) the name of the vulnerable adult; (2) the identity of the individual alleged to be the perpetrator, unless the individual is “substantiated” as the perpetrator as defined in Minn. Stat. Section 13.3805, subd. 3;¹ (3) the identity of all individuals interviewed as part of the investigation; (4) other data on individuals maintained as part of the investigation; and (5) the name of the person who reported the alleged maltreatment.

4. Data identifying persons described in paragraph No. 3 above shall not become public data by virtue of having been submitted to this proceeding and shall remain not public after the conclusion of this review meeting. In preparation for and during the meeting, the parties may refer to names of individuals involved and will have access to documents containing private information. Unless the Administrative Law Judge determines that it is in the best interest of the persons described in paragraph No. 3 above, the record will not be sealed. The Administrative Law Judge’s Recommendation and the Commissioner’s Order shall use non-identifying initials or aliases in place of the names of any persons described in paragraph No. 3 above.

5. The meeting in this matter is presumed open. If there is testimony by or about persons described in paragraph No. 3 above, that portion of the meeting shall be closed. If a transcript is ordered, the names of the persons described in paragraph No. 3 above shall be redacted and replaced by non-identifying initials or aliases.

6. The data encompassed by this order may be used only in this proceeding and not for any other purpose including collateral litigation, unless otherwise ordered by a court of law.

7. Nothing in this Protective Order permits the disclosure of the identity of any reporter as prohibited by Minn. Stat. § 626.557, subd. 5(d).

8. Any person bound, as described by this Protective Order in paragraph No. 1, is prohibited from disclosing any of the data subject to this Protective Order to anyone other than those persons identified in paragraph No.1 above.

9. The parties and counsel must return all copies of data subject to this Protective Order to the Department at the close of the review.

10. This Protective Order will expire upon compliance with the requirements of paragraph 9 above.

¹ See 2005 Minnesota Laws Chapter 163, section 36.

Dated: December 17, 2007

s/Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge